

**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Set Public Hearing for November 7, 2007, to Consider Report for Sidewalk Repairs and to Confirm the Report as Submitted by the Public Works Department

MEETING DATE: October 17, 2007

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Set a public hearing for November 7, 2007, to consider the Report for Sidewalk Repairs, hear protests from the public, and to confirm the report as submitted by the Public Works Department. Following the public hearing, the Council will be asked to confirm the cost of repairs report, determine the method of payment, assess the cost of repairs to the affected property (121 Olive Court), and order the preparation of a Notice of Lien to be filed with the tax collector. The property owner was billed on July 27, 2007, for the \$5,566.12 cost of repair. As of October 1, 2007, the property owner has not responded.

BACKGROUND INFORMATION: As part of the City's sidewalk maintenance program, on March 7, 2007, the City notified eleven property owners their sidewalks needed to be repaired. These notices were sent to property owners with the worst offsets according to our sidewalk survey. Some owners took care of the need immediately, some asked for assistance, and one owner did not perform.

The Curb, Gutter & Sidewalk Maintenance Policy, approved by Council, provides several alternatives for the cost of repairs. Those alternatives are: a) City will advance funds for installation or maintenance without interest if the property owner agrees to make payments over the course of twelve months and upon execution of a written payment agreement with the City; b) property owners meeting low-income eligibility per the City's SHARE Program may elect to defer maintenance costs until transfer of ownership with execution of a payment agreement with a fixed interest; or c) the City Manager is authorized to execute payment agreements and file liens and assessments with the County Tax Collector and/or Recorder as appropriate to secure payment.

Property owners were given up to three notices over a two-month period. If they did not make the repairs, the City's contractor would repair the sidewalk. Streets and Highway Code Section 5616 requires that a public hearing be held to hear and pass upon the report of cost of repairs and to hear protests which may be raised by property owners.


The following is a list of the eleven properties that received sidewalk repair notifications:

APPROVED: 

Blair King, City Manager

Set Public Hearing for November 7, 2007, to Consider Report for Sidewalk Repairs and to Confirm the Report as Submitted by the Public Works Department
 October 17, 2007
 Page 2

Street Address	Cost Estimate	Work Accomplished
1636 South School Street	\$6,115	Property owner hired contractor. Work completed 6/12/07.
354 East Oak Street	\$966	Property owner hired contractor. Work completed 5/11/07.
421 South Pleasant Avenue	\$14,318	Property owner hired City Work completed 7/7/07.
731 North Ham Lane	\$8,727	Property owner hired contractor. Work completed 5/11/07.
110 North Mills Avenue	\$4,330	Property owner hired contractor. Work completed 5/11/07.
523 Tamarack Drive	\$1,835	Property owner hired contractor. Work completed 7/23/07.
725 North Lincoln Avenue	\$1,835	Property owner hired contractor. Work completed 5/11/07.
1615 Edgewood Drive	\$1,942	Property owner hired contractor. Work completed 5/11/07.
1701 Holly Drive	\$3,197	Property owner hired contractor. Work completed 3/26/07.
75 North Crescent Avenue	\$3,772	Property owner hired City. Work completed 7/16/07.
121 Olive Court	\$5,566	Failed to perform. City completed repair; billed property owner.


 Richard C. Prima, Jr.
 Public Works Director

Continued March 7, 1990

Since that date staff has had a number of conversations with Mr. Price concerning this topic.

Police Sergeant Frank Grenko, who is in charge of the Police Department's Gang Unit presented a video tape which graphically illustrated the extend of the problem. Sergeant Grenko responded to questions regarding the matter.

Various alternatives to assist in resolving the problem were discussed.

Mr. Arthur Price was in the audience and addressed the City Council regarding the problem and possible solutions.

Following discussion, the Mayor directed staff to proceed with altynative methods to resolve the problem.

METHODS OF COLLECTION OF SIDEWALK REPAIR COSTS

RESOLUTION NO. 90-35

CC-45(e)

The City Council **was** reminded that at its meeting of CC-300 February 21, **it** asked what methods were available for the collection of costs of the maintenance of the sidewalks. The Streets and Highways Code delineates several alternatives **if** the bill for the replacement or repair of the sidewalk is not paid within five days of the billing. Those alternatives are listed below.

1. File a Notice of Lien **on** the property (Streets and Highways Code §5627)

This lien is filed with the County Recorder and remains on the property until **it** is paid or until **the** City files an action to foreclose the lien in the manner and under the **same** procedures as that **which** delinquent bonds are foreclosed. With this alternative, **it** could be years before the City collects.

- a. Order the Notice of Lien to **be** turned over to the Tax Collector (Streets and Highways Code §5628)

The Tax Collector would collect the cost **with** the next year's property tax and, **if it** is not paid with next year's taxes, **it** would become delinquent and be handled the same as other delinquent property taxes. This is the method **used** for the street light

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager King announced that the League of California Cities was sponsoring a rally in Stockton tomorrow in support of the implementation of Proposition 42, which was approved by the voters to ensure that gas tax would go to streets and highways projects. Since the proposition's adoption, it has been suspended by the legislature and the money diverted to the State's general fund.

I. PUBLIC HEARINGS

- I-1 Notice thereof having been pasted and mailed according to law, an affidavit of which is on file in the office of the City Clerk. Mayor Beckman called for the continued public hearing to consider objections or protests to the Cost of Repairs Report for sidewalk repairs at 633 Holly Drive, confirm Report as submitted by the Superintendent of Streets, and authorize the City Manager to file a Notice of Lien with the Assessor and Tax Collector if the amount is not paid.

Public Works Director Prima reviewed the background related to this matter and options available under the Streets and Highways Code. Staff spoke with the property Owner after the last Council meeting and he agreed to pay \$50 per month on the 545.26 sidewalk repair bill. Mr. Prima recommended that Council authorize the City Manager to file a notice of lien with the tax collector in the event the property owner did follow through with the payment arrangement.

Hearina Opened to the Public

None.

Public Portion of Hearina Closed

Discussion ensued regarding the timing of filing the lien and matters related to bankruptcy, which the property owner had previously indicated he had entered.

MOTION IVOTE:

The City Council, on motion of Mayor Beckman, Mounce second, unanimously 1) confirmed the Cost of Repairs Report for sidewalk repairs at 633 Holly Drive as submitted by the Superintendent of Streets, 2) encouraged the property owner to make payments as agreed to, and 3) authorized the City Manager to file a Notice of Lien with the County Recorder's Office to be paid at the time of sale of the property, if not paid in full prior to that time.

- I-2 Notice thereof having been published according to law, an ~~affid~~ of which publication is on file in the office of the City Clerk, Mayor Beckman called for the public hearing to consider adopting a resolution to abandon five-foot public utility easement at 2024 Kettleman Lane.

Public Works Director Prima recalled that in 1982 a five-foot public utility easement was dedicated over the west five feet of Lot 59 of "Lakeshore Village, Unit No. 1" in conjunction with the development of the subdivision. The easement was needed for the installation of underground electrical utility lines. The current property owner has requested relocation of the electrical utility facilities and abandonment of the five-foot public utility easement to allow construction of the proposed 19-lot "Mills Crossing" Phase II subdivision on the site.

Hearina Opened to the Public

None.

Public Portion of Hearina Closed

CITY COUNCIL

BOB JOHNSON, Mayor
JOANNE L. MOUNCE
Mayor Pro Tempore
LARRY D. HANSEN
SUSAN HITCHCOCK
PHILKATZAKIAN

CITY OF LODI

PUBLIC WORKS DEPARTMENT

CITY HALL, 221 WEST PINE STREET

P.O. BOX 3006

LODI, CALIFORNIA 95241-1910

(209) 333-6706

FAX (209) 333-6710

EMAIL pwdept@lodi.gov

<http://www.lodi.gov>

BLAIR KING

City Manager

RANDI JOHL

City Clerk

D. STEVEN SCHWABAUER

City Attorney

RICHARD C. PRIMA, JR.

Public Works Director

October 12, 2007

Fernando Almeida
121 Olive Court
Lodi, CA 95240

SUBJECT: Set Public Hearing for November 7, 2007, to Consider Report for Sidewalk Repairs
and to Confirm the Report as Submitted by the Public Works Department

Enclosed is a copy of background information on an item on the City Council agenda of
Wednesday, October 17, 2007. The meeting will be held at 7 p.m. in the
City Council Chamber, Carnegie Forum, 305 West Pine Street.

As indicated in the title, the only action will be to set a public hearing date on the item
Public hearings are usually set for the second following Council Meeting.

If you wish to write to the City Council, please address your letter to City Council,
City of Lodi, P. O. Box 3006, Lodi, California, 95241-1910. Be sure to allow time for the
mail. Or, you may hand-deliver the letter to City Hall, 221 West Pine Street.

If you wish to address the Council at the Council Meeting, be sure to fill out a speaker's
card (available at the Carnegie Forum immediately prior to the start of the meeting) and
give it to the City Clerk. If you have any questions about communicating with the
Council, please contact Randi Johl, City Clerk, at 333-6702.

If you have any questions about the item itself, please call George Bradley, Streets and
Drainage Manager, at 333-6740.


Richard C. Prima, Jr.
Public Works Director

br:

RCP/pmf

Enclosure

cc: City Clerk



*Please immediately confirm receipt
of this fax by calling 333-6702*

CITY OF LODI
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

ADVERTISING INSTRUCTIONS

**SUBJECT: PUBLIC HEARING TO CONSIDER REPORT FOR SIDEWALK
REPAIRS AND TO CONFIRM THE REPORT AS SUBMITTED BY
THE PUBLIC WORKS DEPARTMENT**

PUBLISH DATE: SATURDAY, OCTOBER 20, 2007

LEGAL AD

TEAR SHEETS WANTED: One (1) please

SEND AFFIDAVIT AND BILL TO: RANDI JOHL, CITY CLERK
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: THURSDAY, OCTOBER 18, 2007

ORDERED BY: RANDI JOHL
CITY CLERK


JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

CYNTHIA MURPHY
ADMINISTRATIVE CLERK

Verify Appearance of this Legal in the Newspaper – Copy to File

Faxed to the Sentinel at 369-1084 at 2:40 (time) on 10/18/07 (date) 2 (pages)
LNS _____ Phoned to confirm receipt of all pages at _____ (time) _____ JLT _____ DRC _____ JMP (initials)



DECLARATION OF POSTING

PUBLIC HEARING TO CONSIDER REPORT FOR SIDEWALK REPAIRS AND TO CONFIRM THE REPORT AS SUBMITTED BY THE PUBLIC WORKS DEPARTMENT

On Friday, October **19**, 2007, in the City of Lodi, San Joaquin County, California, a Notice of Public Hearing to consider Report for Sidewalk Repairs and to confirm the Report as submitted by the Public Works Department (attached and marked **as** Exhibit A) was posted at the following locations:


Lodi Public Library
Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October **19**, 2007, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK


JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

CYNTHIA MURPHY
ADMINISTRATIVE CLERK



DECLARATION OF MAILING

PUBLIC HEARING TO CONSIDER REPORT FOR SIDEWALK REPAIRS AND TO CONFIRM THE REPORT AS SUBMITTED BY THE PUBLIC WORKS DEPARTMENT

On Thursday, October **18**, 2007, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing Notice of Public Hearing to consider Report for Sidewalk Repairs and to confirm the Report as submitted by the Public Works Department, attached hereto Marked Exhibit **A**. The mailing list for said matter is attached hereto, marked Exhibit **B**.


There **is** a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October **18**, 2007, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK, CITY OF LODI


JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

CYNTHIA MURPHY
ADMINISTRATIVE CLERK



CITY OF LODI

Carnegie Forum

305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING

Date: November 7, 2007

Time: 7:00 p.m.

For information regarding this notice please contact:

Randi Johl,

City Clerk

Telephone: (209) 333-6702

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, November 7, 2007**, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following matter:

- a) Report for Sidewalk Repairs and to confirm the Report as submitted by the Public Works Department.

Information regarding this item may be obtained in the Public Works Department, 221 West Pine Street, Lodi, (209) 333-6706. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk, City Hall, 221 West Pine Street, 2nd Floor, Lodi, 95240, at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the close of the public hearing.

By Order of the Lodi City Council:

Randi Johl
City Clerk

Dated: October 17, 2007

Approved as to form:

D. Stephen Schwabauer
City Attorney

EXHIBIT B

**PUBLIC HEARING TO CONSIDER REPORT FOR SIDEWALK REPAIRS
AND TO CONFIRM THE REPORT AS SUBMITTED BY THE
PUBLIC WORKS DEPARTMENT**

MAILING LIST

**Fernando Almeida
121 Olive Court
Lodi, CA 95240**